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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,020	03/31/2004	Jaann Bang Liou	14334 B	5519
36672	7590	08/08/2005	EXAMINER	
CHARLES E. BAXLEY, ESQ. 90 JOHN STREET THIRD FLOOR NEW YORK, NY 10038				NGUYEN, TAM M
		ART UNIT		PAPER NUMBER
		3764		

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/814,020		Applicant(s)
Examiner	LIOU, JIANN BANG		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1 and 6 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 and 7-10 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the driving means" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

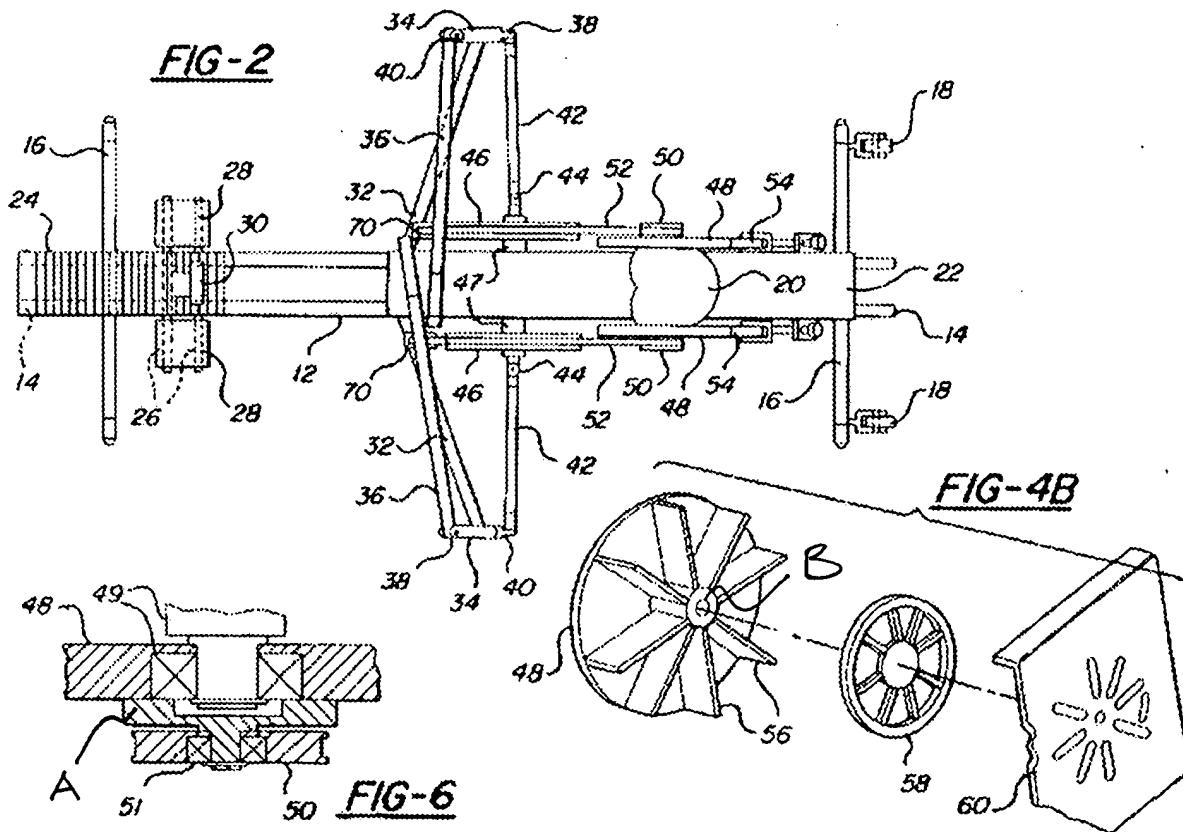
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

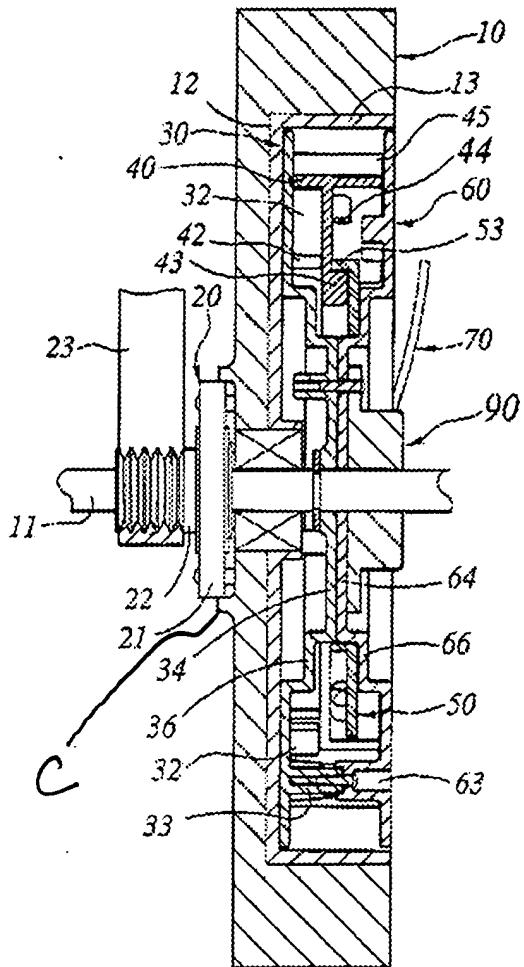
Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pape (5,779,600) in view of Lay (US 2001/0003110 A1).

2. As to claim 1, Pape discloses an exerciser comprising a base (12), a rotating wheel (A), a rotary member (46) rotatably supported on the base and coupled to the rotating wheel to allow the rotary member to rotate the rotating wheel, a fan device/flywheel (48,56) attached onto the rotating wheel and rotated in concert with the rotating wheel to generate cooling air. The fan device includes a plate (48) secured to the rotating wheel and the plate has an opening (B) formed therein. The fan device also includes a plurality of fan blades (56) that extend radially and outwardly from an outer peripheral portion of the plate, and the fan blades are spaced away from the opening of the plate. Each of the fan blades includes a side segment that is laterally extended out

of the plate (see Figs. 2, 4B & 6 below).



Pape does not disclose that the plate includes a peripheral flange extended laterally from one side thereof to engage the rotating wheel (A) to firmly attach the fan device onto the rotating wheel. Lay discloses a flywheel (10) having a peripheral flange (C) extended laterally from one side thereof to firmly engage a rotating member (21) (see Fig. 4 below). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Pape's fan device/flywheel with Lay's peripheral flange to provide a strengthened connection between Pape's fan device/flywheel (48) and Pape's rotating wheel (A).



**FIG. 4**

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pape (5,779,600) in view of Lay (US 2001/0003110 A1) and in further view of Huang (6,736,761).

3. As to claim 6, Pape and Lay disclose a modified exerciser as described above. Pape further discloses that a side segment of the fan blades are spaced away from the opening of the plate (see Fig. 4B above). Pape does not disclose that the side segments includes an inclined surface. Huang discloses an exercise device having a

plurality of fan blades that includes a side segment having an inclined surface (see Figs. 3 & 6). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to change the shape of Pape's fan blades into any of an array of shapes including that which would include an inclined surface to increase or decrease the volume of the cooling air. Furthermore, a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schierling et al. '087, Fukushima '318 and Fulop '882 each disclose flywheels having peripheral flanges that engage rotated members which effectively causes the flywheels to rotate.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 4, 2005

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STEPHEN R. CROW  
PRIMARY EXAMINER  
ART UNIT 332